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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/695,748

10/24/2000

George W Keilman

66060-6

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22504

7590

09/20/2006

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EXAMINER

NASSER, ROBERT L

ART UNIT

PAPER NUMBER

3735

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/695,748

Applicant(s)

KEILMAN ET AL.

Examiner

Robert L. Nasser

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 47-53 and 57-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 50, 51 and 57-63 is/are rejected.
- 7) ☒ Claim(s) 48, 49, 52 and 53 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/26/2001</u> . | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 47, 50, and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Govari et al 6053873 in view of Janssen 5749914 and Silvian 4681111. Govari teaches a method of detecting when a stent is becoming occluded by sensing flow or pressure in the stent with a diagnostic transducer coupled to the stent and transmitting the information to a diagnostic device located outside of the body. It does not sending a therapeutic signal. Janssen teaches a method for clearing an occluded stent by inserting a catheter into the stent and transmitting a therapeutic signal to electrodes at the end of the stent to activate the electrodes and ablate the tissue, to remove the occlusion. As such, it would have been obvious to modify Govari's method to use the ablation device of Janssen, to improve the patient's health and prevent a heart attack. The combination does not magnetically activate the transducer. However, Silvian teaches that it is well known to activate an implanted device magnetically. Hence, it would have been obvious to modify the combination to activate the ablation device using a magnetic signal, as it is merely the substitution of one known activation technique for another.

Claims 57, 58, 60, 61, and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Govari et al 6053873 in view of Janssen 5749914. Govari teaches a

method of detecting when a stent is becoming occluded by sensing flow or pressure in the stent with a diagnostic transducer coupled to the stent and transmitting the information to a diagnostic device located outside of the body. It does not sending a therapeutic signal. Janssen teaches a method for clearing an occluded stent by inserting a catheter into the stent and transmitting a therapeutic signal to electrodes at the end of the stent to activate the electrodes an ablate the tissue, to remove the occlusion. As such, it would have been obvious to modify Govari's method to use the ablation device of Janssen, to improve the patient's health and prevent a heart attack. Claim 59 is rejected in that the ablation energy could rupture a drug precursor. Claim 60 is rejected in that the circuitry in the stent is powered from outside of the body and the power signal is received by rf coil 40. Claim 61 is rejected in that it the examiner takes official notice that hardwired and wireless connections are known to be equivalent in the art. Accordingly, it would have been obvious to modify the combination to hardwire the external power source to the sensor, as it is merely the substitution of one known equivalent for another. Claim 62 is rejected in that the sensor communicates with the receiver at one frequency and the power signal is at a second frequency (see figure 4a). Claim 63 is rejected in that there are a plurality of pressure sensors along the stent.

Claim 48, 49, and 52, 53 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 48 defines over the art in that none of the art ultrasonically activates a drug, in combination with the method

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steps of claim 47. Claims 49 defines over the art in that none of the art ruptures a delivery vessel to deliver a drug. Claims 52 and 53 define over the art in that none of the art activates an ultrasonic transducer to emit two frequencies of ultrasonic signals.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Mosseri et al shows a method of minimizing restenosis a stent.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert L. Nasser whose telephone number is 571 272-4731. The examiner can normally be reached on m-f 9-5.

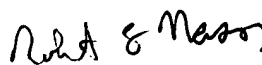
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor II can be reached on 571 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert L. Nasser
Primary Examiner
Art Unit 3735

RLN
August 22, 2006



ROBERT L. NASSER
PRIMARY EXAMINER